

MEMO ENDORSED

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THE CITY OF NEW YORK
LAW DEPARTMENT
 100 CHURCH STREET
 NEW YORK, N.Y. 10007

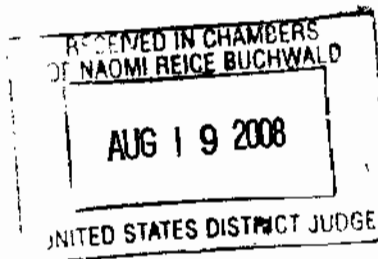
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August 19, 2008

BY HAND

Honorable Naomi R. Buchwald
 United States District Judge
 Southern District of New York
 500 Pearl St.
 New York, NY 10007



Re: Prescott v. City of New York, et al., 08 CV 5958 (NRB)

Dear Judge Buchwald:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney for defendants the City of New York ("City") and the New York City Department of Correction ("DOC") in the above-referenced matter.¹ I am writing to respectfully request a sixty-day enlargement of time, from August 21, 2008 until October 21, 2008, within which defendants City and DOC may answer or otherwise respond to the complaint. I write directly to the Court because plaintiff is currently incarcerated and proceeding pro se in this matter. This is defendants' first request for an enlargement of time in this action.

The complaint alleges, inter alia, that plaintiff was subjected to an illegal strip search while incarcerated at Rikers Island. In addition to the City, the complaint purports to name "ADM: Executive Director NYC Correction", "ADM: Deputy Director Corrections", "Captain Rice", and "Warden Bailey" as defendants. On information and belief, however, these individuals have not been served with a copy of the summons and complaint and therefore are not defendants in this action. The Court's docket sheet also indicates that DOC and "John Doe Corrections" were served with a copy of the summons and complaint on or about August 1, 2008. However, defendants respectfully submit that neither DOC nor "John Doe Corrections"

¹ Defendants respectfully submit that DOC is not a suable entity.

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*So ordered
 [Signature]
 9/2/08*

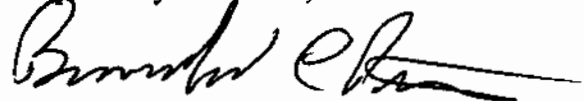
are suable entities. Furthermore, defendants respectfully note that, according to the caption of the complaint, DOC is not named as a defendant in this action. Before this office can adequately respond to the complaint, we will need to conduct an investigation into these service issues and the facts of the case. The enlargement of time will afford us the opportunity to investigate the matter.

Moreover, the enlargement will allow us to ascertain whether any individual defendants have been properly served. If proper service has been effectuated then, pursuant to Section 50-k of the New York General Municipal Law, this office must determine, based on a review of the case, whether we may represent these individuals. The served defendants must then decide whether they wish to be represented by this office. If so, we must obtain their written authorization. Only after this procedure has been followed can we determine how to proceed in this case.

In view of the foregoing, it is respectfully requested that the Court grant the within request extending defendants City of New York and DOC's time to answer or otherwise respond to the complaint until October 21, 2008.

Thank you for your consideration in this regard.

Respectfully submitted,



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Assistant Corporation Counsel
Special Federal Litigation Division

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